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22 DEC 2006

Leonard C, Mitchard
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Arlington, VA 22203

In re Application of :
McLAUGHLIN et al. :
Application No.: 10/530,862 :
PCT No.: PCT/AU03/01349 :
Int. Filing: 13 October 2003 :
Priority Date: 11 October 2002 :
Attorney Docket No.: 4132-5 :
For: A SUPPORT APPARATUS :

DECISION ON PETITION

This decision is issued in response to applicants' "Renewed Petition under 37 CFR 1.47(a)" filed 22 November 2006 and "Supplemental Petition under 37 CFR 1.47(a)" filed 21 December 2006 to accept the application without the signature of joint inventor, Neil McLaughlin. The requisite \$200 petition fee has been submitted.

BACKGROUND

On 13 October 2003, applicants filed international application PCT/AU03/01349, which claimed a priority date 11 October 2002. A copy of the international application was communicated to the United States Patent and Trademark Office from the International Bureau on 22 April 2004. Pursuant to 37 CFR 1.495, the period for paying the basic national fee in the United States expired 30 months from the priority date, 11 April 2005.

On 11 April 2005, applicants filed a transmittal for entry into the national stage in the United States, which accompanied by, inter alia: the requisite basic national fee as required by 35 U.S.C. 371(c)(1); a copy of the international application; and a preliminary amendment.

On 12 December 2005, the United States Designated/Elected Office mailed a Notification of Missing Requirements under 35 U.S.C. 371 (Form PCT/DO/EO/905) indicating that an oath or declaration in compliance with 37 CFR 1.497(a) and (b) must be filed. The notification set a two-month time limit in which to respond.

On 13 March 2006, applicants filed a petition under 37 CFR 1.47(a). In a decision dated 14 June 2006, applicants' petition under 37 CFR 1.47(a) was dismissed without prejudice.

On 16 October 2006, applicants filed a renewed petition under 37 CFR 1.47(a). In a decision dated 13 November 2006, applicants' petition under 37 CFR 1.47(a) was dismissed without prejudice.

On 22 November 2006, applicants filed the present renewed petition under 37 CFR 1.47(a).

On 21 December 2006, applicants filed a "Supplemental Petition under 37 CFR 1.47(a)."

DISCUSSION

A petition under 37 CFR 1.47(a) must be accompanied by (1) the fee under 37 CFR 1.17(h), (2) factual proof that the missing joint inventor refuses to execute the application or cannot be reached after diligent effort, (3) a statement of the last known address of the missing inventor, and (4) an oath or declaration by each 37 CFR 1.47(a) applicant on his or her own behalf and behalf of the non-signing joint inventor.

A review of the petition papers filed 22 November 2006 reveals that petitioner has paid the requisite petition fee, provided sufficient proof that the non-signing inventor (Neil McLaughlin) refused to sign; stated the last known address of the non-signing inventor (Neil McLaughlin), and provided an acceptable declaration. Accordingly, all of the requirements of items (1), (2), (3), and (4) above have been satisfied.

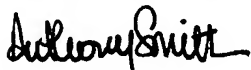
As to the declaration of inventorship, petitioner states in the supplemental petition that the correct spelling of the first inventor's name is Neil MCLAUGHLIN as indicated on the declaration rather than Neil McLaughlin as indicated on the published international application. Petitioner's explanation of the difference in the spelling of the inventors' name is accepted and noted for the record pursuant to Section 201.03 of the Manual of Patent Examining Procedure.

CONCLUSION

The renewed petition under 37 CFR 1.47(a) is GRANTED.

As provided in 37 CFR 1.47(a), a notice of the filing of this application will be forwarded to the nonsigning inventor at his last known address of record. A notice of the filing of the application under 37 CFR 1.47(a) will be published in the Official Gazette.

This application is being returned to the United States Designated/Elected Office for processing in accordance with this decision.



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For: A SUPPORT APPARATUS

Dear Neil McLaughlin:

You are named as an inventor in the above identified United States patent application, filed under the provisions of 37 CFR 1.47(b) and 35 U.S.C. 116. Should a patent be granted, you will be designated as an inventor.

As a named inventor, you are entitled to inspect any paper in the file wrapper of the application, order copies of all or any part thereof (at a prepaid cost per 37 CFR 1.19) or to make your position of record in the application. Alternatively, you may arrange to do any of the preceding through a registered patent agent or attorney presenting written authorization from you. If you care to join in the application, counsel of record (see below) would presumably assist you. Joining in the application would entail the filing of an appropriate oath or declaration by you pursuant to 37 CFR 1.63.

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